

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JANIE SMITH-THOMAS,

Plaintiff,

v.

HOME DEPOT USA INC.,

Defendant.

Case No. C24-5049-MLP

ORDER

I. INTRODUCTION

This matter is before the Court on Defendant Home Depot USA Inc.’s (“Home Depot”) Motion for Summary Judgment. (Mot. (dkt. # 19).) Plaintiff Janie Smith-Thomas filed a response. (Resp. (dkt. # 21).) Having reviewed the motion, the supporting documents, and applicable law, the Court GRANTS Home Depot’s Motion for Summary Judgment (dkt. # 19), as discussed further below.

II. BACKGROUND

In August 2020, Ms. Smith-Thomas rented a table saw from Home Depot. (Sterbick Decl. (dkt. # 22) at Ex. A; Purcell Decl. (dkt. # 20) at Ex. 5.) In her complaint, Ms. Smith-Thomas alleged that Home Depot failed to provide the proper safety equipment and safety

1 instructions along with the rental of the table saw. (Compl. (dkt. # 1-1) at 2.) While using the
2 table saw, two of Ms. Smith-Thomas's fingers were severely cut, requiring ligament repair
3 surgery. (*Id.*) As a result, Ms. Smith-Thomas asserts she no longer has full use of her fingers.
4 (*Id.*)

5 Ms. Smith-Thomas initiated this action by filing a Complaint against Home Depot in
6 Pierce County Superior Court, alleging Home Depot's negligence proximately caused her
7 injuries. (Compl. at 3.) On January 16, 2024, Home Depot removed the case to this Court,
8 asserting diversity jurisdiction under 28 U.S.C. § 1332. (Dkt. # 1.)

9 Subsequently, on February 26, 2024, the parties filed a Joint Status Report. (Dkt. # 12.)
10 Pursuant to this report, the Court issued an Order on February 28, 2024, setting a trial date and
11 pretrial schedule. (Dkt. # 13.)

12 On December 12, 2024, Ms. Smith-Thomas's attorney, John A. Sterbick, filed a notice of
13 withdrawal. (Dkt. # 16.) The Court struck this notice on January 7, 2025, pursuant to Local Civil
14 Rule ("LCR") 83.2(b)(1), because withdrawal would leave Ms. Smith-Thomas unrepresented.
15 (Dkt. # 17.)

16 On February 26, 2025, Home Depot filed its Motion for Summary Judgment. (Mot.) On
17 March 13, 2025, Mr. Sterbick responded to the motion and also filed a Motion to Withdraw as
18 Counsel.¹ (Resp.; dkt. # 23.) Home Depot filed a reply on March 24, 2025. (Dkt. # 24.)

19 Although the discovery period had closed, the Court granted the withdrawal motion on
20 March 26, 2025, noting that Ms. Smith-Thomas had formally discharged Mr. Sterbick. (Dkt.
21 # 25.) The Court then directed Ms. Smith-Thomas to either secure new counsel or notify the
22

23 ¹ Ms. Smith-Thomas's response states "that Home Depot failed to provide safety instructions and the
'push stick' as part of the safety equipment provided with the saw." (Resp. at 1.) A "[p]ush stick means a
narrow strip of wood or other soft material with a notch cut into one end and which is used to push short
pieces of material through saws." 29 C.F.R. § 1910.211(a)(2).

1 Court of her intent to proceed *pro se*, and renoted Home Depot’s Motion for Summary Judgment
2 for April 28, 2025. (*Id.* at 3.)

3 On April 29, 2025, the Court received a letter from Ms. Smith-Thomas indicating her
4 intent to proceed with the case, which the Court construed as a notice of intention to proceed *pro*
5 *se*. (Dkt. ## 26, 27.) The following day, Ms. Smith-Thomas updated her address with the Clerk’s
6 Office. Since Mr. Sterbick’s withdrawal, Ms. Smith-Thomas has not filed any response or
7 statement of disputed facts regarding Home Depot’s Motion.

8 III. LEGAL STANDARDS

9 Summary judgment is appropriate when, viewing the evidence in the light most favorable
10 to the nonmoving party, “the movant shows that there is no genuine dispute as to any material
11 fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *Young v.*
12 *United Parcel Serv., Inc.*, 575 U.S. 206, 216 (2015). A fact is material if it “might affect the
13 outcome of the suit under the governing law[,]” and a dispute is genuine when “the evidence is
14 such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty*
15 *Lobby, Inc.*, 477 U.S. 242, 248 (1986). If the movant meets this burden, the nonmoving party
16 must set forth specific facts demonstrating that a factfinder could reasonably find in its favor. *Id.*
17 at 250.

18 The Court cannot consider the absence of a response from the nonmoving party to be an
19 admission that a summary judgment motion has merit. *See* LCR 7(b)(2). Nonetheless, the Court
20 may consider the supporting materials—including undisputed facts—and grant summary
21 judgment if they demonstrate that the movant is entitled to judgment. *Heinemann v. Satterberg*,
22 731 F.3d 914, 916 (9th Cir. 2013); Fed. R. Civ. P. 56(e)(3). It is important to note that unverified
23

1 allegations in pleadings do not create genuine disputes of material fact. *See Moran v. Selig*, 447
2 F.3d 748, 759 (9th Cir. 2006).

3 Further, when Requests for Admission are served, “[a] matter is admitted unless, within
4 30 days after being served, the party to whom the request is directed serves on the requesting
5 party a written answer or objection addressed to the matter and signed by the party or its
6 attorney.” Fed. R. Civ. P. 36(a)(3). Failure to respond thus results in the matters being deemed
7 admitted and precludes the existence of a genuine issue as to that matter, which supports
8 summary judgment. *See, e.g., Conlon v. U.S.*, 474 F.3d 616, 621 (9th Cir. 2007); *Ocasio v. Las*
9 *Vegas Metropolitan Police Dept.*, 10 Fed. Appx. 471 (9th Cir. 2001).

10 IV. DISCUSSION

11 Here, Ms. Smith-Thomas was served with Requests for Admission in September 2024.
12 (Purcell Decl. at ¶ 5, Ex. 5.) To date, she has failed to respond. (*Id.*) This nonresponse results in
13 the admissions that: (1) Ms. Smith-Thomas received a push stick along with her rental of the
14 table saw; and (2) she was provided with an operator’s manual and safety instructions at that
15 time. (Mot. at 3-4; Purcell Decl. at Ex. 5.) These undisputed facts directly contradict her claim
16 that Home Depot failed to supply such safety equipment and instructions. (*See* Compl. at 2;
17 Resp.)

18 Although Ms. Smith-Thomas’ counsel filed a response to Home Depot’s Motion, the
19 response did not address the Requests for Admission or otherwise provide any evidence
20 contradicting Home Depot’s statements. (Resp. at 2.) Ms. Smith-Thomas asserts that the signed
21 rental contract did not confirm that the listed parts were actually provided to her. (*Id.*) However,
22 the referenced contract states Ms. Smith-Thomas “received the equipment referenced in the
23 Agreement” and was “offered operating manuals on the rental equipment.” (Sterbick Decl. at Ex.

1 A.) It also indicates that the table saw was returned without incurring charges for damaged or
2 missing equipment. (*Id.*) Ms. Smith-Thomas’s conclusory response is thus insufficient to
3 establish a genuine issue of material fact for trial. *See Fed. Trade Commission v. Publishing*
4 *Clearing House, Inc.*, 104 F.3d 1168, 1171 (9th Cir. 1997).

5 Ms. Smith-Thomas has not moved to withdraw or amend her admissions. She was on
6 notice that Home Depot intended to rely on these admissions as early as the filing of its motion
7 on February 26, 2025. Her awareness of the case proceedings is further evidenced by a
8 December meeting with Mr. Sterbick, during which she was provided copies of Home Depot’s
9 discovery requests. (Resp. at 3.) Additionally, Ms. Smith-Thomas’s responses to the Court’s
10 orders further demonstrate her knowledge of the pending motion for summary judgment and the
11 associated deadlines. (*See, e.g.*, dkt. # 26.) Despite proceeding *pro se*, she is still subject to the
12 Federal Rules and the Court’s Local Rules. *See Carter v. Comm’r of Internal Revenue*, 784 F.2d
13 1006, 1008 (9th Cir. 1986) (explaining that a *pro se* litigant must “abide by the rules of the court
14 in which he litigates”). Her status does not exempt her from these obligations, and her failure to
15 oppose or challenge the admissions further justifies the Court’s decision to grant summary
16 judgment. *See Layton v. Int’l Assoc. of Machinists & Aerospace Workers*, 2006 WL 8447069, at
17 *3 (C.D. Cal. June 7, 2006) (“courts have construed Rule 36 not to allow district courts to
18 withdraw or ignore admissions unless a motion for withdrawal is made.”).

19 Given the record, Ms. Smith-Thomas’s uncontested admissions, and her failure to
20 meaningfully respond despite clear notice, the Court finds that summary judgment is appropriate.

21 //

22 //

23 //

